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LITTLETON WALLER TAZEWELL.*

Governor Tazewell, I believe, has not been fully understood by many. Recognized by all as a man of wonderful intellect, those peculiar characteristics which denoted the man, and determined his career, have not been known, and he has been in some sort a study and an enigma.

Let me say at the outset that he was a man of the highest ideals and of the deepest sentiment. This tempered the man throughout his career. Bold, resolute, and aggressive, born for action, yet "with this regard" he sometimes found his "*currents turned awry.*" He could not always tolerate the conditions. Life to him—life upon his own lines, life wrought out in his own way—was of deeper significance than action.

If I may digress for a moment, he was a man who thought deeply and felt deeply—a man, you may say, of religion, though not of much outward expression of it; a man whose opinion you would have liked to know on the great problem of life (and there are not many). We know the result. We know it in the attitude and relation. It was Goethe's and Plato's "reverence." Probably he would not have cared to speak.

When these feelings find place in a life, action in its ordinary sense

* The following letter to the editor accompanied this paper:

"The late Judge Edward C. Burks in the summer or fall of 1895 wrote to me, requesting that I would write a notice for the VIRGINIA LAW REGISTER of Gov. Littleton Waller Tazewell. Of course he did not desire an extended article, but a paper more particularly directed to the character of the man and lawyer. I was too unwell then to undertake it, but I did make for myself some notes on the subject; and coming by accident upon these some days ago, it occurred to me that I would fill them out and send them to you for publication, if you should desire it. Accordingly I enclose what I have written. My object has been to denote in some sort the leading characteristics of the man, and incidentally of the lawyer. I think it is of the man always that we wish most to know.

"Norfolk, Va.

RICHARD WALKE."

is not the controlling idea. It isn't so much that the limitations of action are so clearly seen—the fruitlessness, perhaps, of it, the doubt of the final lasting result—but there is a different governing motive. It is not inconsistent with action—with the highest action—but it must act under its own conditions. It will not descend.

Mr. Tazewell's want of interest in the active struggle of life, in the arena, had been frequently commented upon. I believe this is the explanation of it; and I have sought carefully to understand it. His solemn, majestic, thoughtful face bears that meaning for me. It so looks down from the canvas. It is true, I do not believe he had any ambition, "that last infirmity of noble minds;" but he was conscious of his powers, and desired action.

Much may be said of the Macaulays as against the Carlyles, of the Pitts as against the Burkes; but no man can be all in all. It is as a type that he speaks. And I admire greatly this type. Burke, in his noted speech to the electors of Bristol, declining the poll, said:

"Gentlemen, I decline the election. It has ever been my rule through life to observe a proportion between my efforts and my objects. I have never been remarkable for a bold, active, and sanguine pursuit of advantages that are personal to myself.

"I have not canvassed the whole of this city in form, but I have taken such a view of it as satisfies my own mind that your choice will not ultimately fall upon me. Your city, gentlemen, is in a state of miserable distraction, and I am resolved to withdraw whatever share my pretensions may have had in its unhappy divisions. I have not been in haste; I have tried all prudent means; I have waited for the effect of all contingencies. If I were fond of contest, by the partiality of my numerous friends (whom you know to be among the most weighty and respectable people of the city) I have the means of a sharp one in my hands. But I thought it far better, with my strength unspent, and my reputation unimpaired, to do, early and from foresight, that which I might be obliged to do from necessity at last.

"I am not in the least surprised nor in the least angry at this view of things. I have read the book of life for a long time, and I have read other books a little. Nothing has happened to me but what has happened to men much better than me, and in times and in nations full as good as the age and the country that we live in. To say that I am no way concerned would be neither decent nor true.

"But, gentlemen, I will see nothing but your former kindness, and I will give way to no other sentiments than those of gratitude. From the bottom of my heart I thank you for what you have done for me. I have served the public for fifteen years. I have served you in particular for six. What is past is well stored; it is safe, and out of the power of fortune. What is to come is in wiser hands than ours; and He in whose hands it is best knows whether it is best for you and me that I should be in parliament, or even in the world."

I cite this as a splendid expression of true sentiment from the first

philosophic statesman of Great Britain, and perhaps of modern times; and I cite it, because I find between this great man and the subject of this sketch an identity of thought and sentiment on this subject. The one as the other did possess an unwillingness to scheme or plot or press for office, or even to hold it under conditions that did not satisfy. In truth, politics and political methods in the United States of America are not an inviting field. Tacitus says of one of his characters "that he attained his wonderful success, not by any extraordinary talents, but because he had a capacity of a level for business and not above it." Sometimes the times and conditions find no place for the man above the level.

But I find that I have not said much about Mr. Tazewell as a lawyer. The fact is, in the mere lawyer I do not take a very deep interest. It is the man which possesses for me chiefly the interest, and which in fact determines for me the lawyer.

Mr. Wirt, in the twenty-fourth number of the *Old Bachelor*, gives probably the best account to be found of Mr. Tazewell's mental endowments, and the special fitness of his mind for the science of law. From daily association and knowledge he had the best opportunity of forming a judgment, and no man was more competent to do it. Among other things he says:

"This young man was really a prodigy. He was only two and twenty years of age; yet his information seemed already to be universal. He spoke on every science and every art like one of its ablest professors. There was no broken lumber or useless trash in his mind. The materials were all of the best sort, and in the highest order. The stores of his knowledge had been collected with so much reflection and hypothetical application, and arranged in his memory with so much skill and method, that he could call them into use at a moment's warning; and there was no point which he wished to illustrate by analogy or support by precedent for which his memory did not supply him at once with the happiest materials.

"It was owing, too, as I believe, to the ever-wakeful, intense, and ardent action of the mind, as well as the collateral meditation and study with which he had read, that his memory appeared to have possessed a faculty of discriminating among the subjects offered to its retention, and rejecting the encumbrance of what was worthless; to have seized and holden with indissoluble tenacity everything that was useful, together with all its roots and ramifications. He seems to have examined the historical incidents with which he had met with all that 'large, sound, round-about sense' as Mr. Locke calls it, which was necessary to combine with it all its causes and consequences, and render it practically useful to the purposes of life. I was several times struck with the superior advantages which he derived from these details of relative and antecedent, with which he had recorded in his memory historical facts."

Again:

"He surpassed them, too, in those powers which are derived from mathematical study; the power of keeping continually in the mind's eye, without winking or wavering, the distant proposition which is to be proven; of advancing to it by steady steps on the shortest route; and bearing up, with the strength of Atlas, the most extended and ponderous train of logical deductions. Such was the habitual steadiness and strength of his mind that, unlike his fellow-students, I never saw him lose sight for an instant of the point in debate, much less shift the point to something else; in advancing to it, I never saw him take one devious step, nor did I ever see him at any moment oppressed or entangled by the concatenation of his argument, or indicate even that he was at all sensible of its weight."

These extracts express the views of a very gifted man and brilliant lawyer, and convey to us a very distinct idea of Mr. Tazewell's remarkable gifts as a lawyer. What more, then, need be said on this point?

I have never been satisfied with that feeling which has sometimes sought to represent this Titan of Thought as sporting, and delighting to sport, with the powers of his mind, and as being equally able and willing to engage in the cause of wrong as of right. Mr. Tazewell was a consummate dialectician, not less so perhaps than the late Cardinal Newman; but he never misused the powers of his mind. He was too great a man to delude. It was in sportiveness and relaxation, and in that only, that he indulged in this play of his powers. Plato says in his *Phædrus*: "Is it not the first rule of good speaking, that the mind of the speaker should know the truth of what he is going to say?" "He then who, being ignorant of the truth, catches at appearances, will only attain an art of rhetoric, which is ridiculous and is not an art at all."

No great man will ever give up truth for appearances. The speaker at the bar is not responsible for his case, but he is responsible for the true presentation of it. And in that is the truth for him, and sometimes the highest credit, and even glory.

In conclusion, Mr. Tazewell, in the judgment of those who knew him and were competent to judge, was the peer in intellect of any of the distinguished men with whom he came in contact, whether in the United States Senate, the Virginia Convention of 1829-'30, or elsewhere. This is no light praise. Those were the days of Webster, and of Calhoun, and of Marshall.

He was born in the city of Williamsburg on December 17, 1774. He was a member of the Virginia legislature in the famous session of

'98; he was shortly afterwards elected to Congress from the Williamsburg district, where he remained one year, declining reëlection. In 1825 he became a Senator of the United States, and afterwards a member of the famous Virginia Convention of 1829-30. He afterwards became Governor of Virginia. He resigned his positions as Senator and Governor. Throughout all this period he was a lawyer of the highest distinction, practising in the Supreme Court of the United States as well as in the courts of his own State, and in the enjoyment of a great national reputation. But, above all this, he was a man true to himself and his convictions, esteeming everything else as a bauble in comparison.

**AN ANALYSIS OF CHAPTER 103 OF THE VIRGINIA CODE,
CREATING AND REGULATING THE SEPARATE
ESTATE OF MARRIED WOMEN.**

The subjoined analysis of the Married Woman's Statute in Virginia was prepared primarily for the use of students in class-room work. The idea in mind was to set each provision apart to itself, with appropriate head-lines, so as to enable the student to more readily get hold of and retain in his mind the main features of the statute.

In the absence of judicial construction, there has necessarily been much guess work, howsoever dogmatically the propositions may have been announced.

It is hoped that the analysis may be of assistance to the practitioners of the State, few of whom, it is believed, have found the time and inclination to thoroughly digest the chapter in its entirety.

For convenience of reference, the full text of the chapter is published as an appendix to the analysis.

I. Property affected by this chapter—

1. All property *acquired* by any married woman since May 1, 1888, regardless of the date of the marriage.¹

Though the right may have accrued and the marriage have taken place antecedently, yet if in action, unreduced at the date of the mar-

¹ Code, sec. 2284.